

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**DENNIS SEIFNER,
APPELLANT
vs.**

**TREASURER OF THE STATE OF MISSOURI-CUSTODIAN OF THE SECOND
INJURY FUND,
RESPONDENT**

DOCKET NUMBER WD74192

DATE: MARCH 27, 2012

Appeal from:

The Labor and Industrial Relations Commission

Appellate Judges:

Division Three: James M. Smart, Jr., P.J., Victor C. Howard and James E. Welsh, JJ.

Attorneys:

Jerrold Kenter, for Appellant

Charles L. Clark, Jr., for Respondent

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DENNIS SEIFNER, APPELLANT

v.

**TREASURER OF THE STATE OF MISSOURI-CUSTODIAN OF THE SECOND
INJURY FUND, RESPONDENT**

WD74192

Labor and Industrial Relations Commission

Before Division Three: James M. Smart, Jr., P.J., Victor C. Howard and James E. Welsh, JJ.

Dennis Seifner filed a claim for workers' compensation against his employer alleging that he was injured as a result of repetitive trauma he experienced while working on a production line. Seifner settled his claim with his employer. Seifner then proceeded on his claim against the Second Injury Fund based upon his preexisting disabilities. An administrative law judge found that due to a lack of credible medical evidence on the issue of causation, Seifner had not established the existence of a compensable occupational disease. Therefore, the administrative law judge denied Seifner's claim. The Labor and Industrial Relations Commission affirmed the decision. Seifner appeals.

AFFIRMED.

Division Three holds:

- (1) Where the Second Injury Fund was not a party to the settlement between Seifner and his employer, it was not bound by the terms of the settlement.
- (2) The Second Injury Fund was not a party to the settlement, it did not have a full and fair opportunity to litigate issues during the settlement proceedings, and the settlement did not constitute a judgment on the merits. Therefore, the doctrine of collateral estoppel did not preclude the Second Injury Fund from litigating issues resolved in the settlement between Seifner and his employer.
- (3) Where the factual basis of the causation opinion of Seifner's medical expert was impeached, the Commission did not err in disregarding the opinion and finding that Seifner had not proven the element of causation.

Opinion by: Victor C. Howard, Judge

Date: March 27, 2012

This summary is <i>UNOFFICIAL</i> and should not be quoted or cited.
